

## **REMARKS**

### **I. Introduction**

Upon entry of the present amendment, claims 1-12 and 14 will remain pending in this application. Claim 6 has been amended to correct a typographical error to change “about” to “above,” support for which appears in the specification at page 9. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

### **II. 35 U.S.C. § 102**

The Examiner has rejected claims 1-5, 8, 9, and 12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,905,683 to Cronjaeger. The Examiner submits that Cronjaeger teaches every element of the rejected claims. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Regarding claim 1 and its dependent claims, Applicants respectfully submit that the Examiner is not properly equating parts of the Cronjaeger mask with the appropriate parts defined by the claims. Applicants’ claim 1 recites a first sealing means configured to form a seal on the face of a user surrounding the eyes, mouth, and nose to define a first cavity, whereby air is inhaled and exhaled solely through the first cavity. The second sealing means defines a second cavity into which there is supplied pressurized air. By contrast, the Cronjaeger patent defines three cavities created by a full mask body 1, an internal half mask 2, and an outer annular sealed cavity 4. None of these three cavities can be characterized as the claimed first and second cavities, nor are the Cronjaeger sealing edges properly comparable to the claimed first and second sealing means.

The Examiner has characterized reference numeral 6 (inner seal edge) as the first sealing means, reference numeral 11 (outer peripheral seal) as the second sealing means, and reference numeral 7 (second chamber) as the first cavity. However, air is not inhaled and exhaled solely through the Cronjaeger chamber 7. Instead, air is inhaled and exhaled through the internal half mask 2, which is separate from the chamber 7. Thus, in order to attempt to compare the Cronjaeger design to the claimed respirator, the seal around the Cronjaeger oronasal cavity area would have to be considered as the first sealing means. The problem with this reasoning then, is that the sealing means does not surround “an area of the user’s face comprising the *eyes*, mouth and nose” – it only surround the user’s nose and mouth region.

Moreover, the portion that the Examiner has characterized as the claimed second cavity is reference numeral 4 (outer annular sealed cavity). However, Cronjaeger does not describe an air pressure supply means suitable for supplying pressurized air to this cavity. The Cronjaeger valve 9 provides communication between mask interior 7 and the interior above the half mask 2. *See* Cronjaeger, col. 4, lines 22-24. Cronjaeger does not describe any cooperation between the valve system and cavity 4 as the Examiner has suggested.

Additionally, of the two Cronjaeger cavities 4 and 7, only cavity 7 can potentially equate with the claimed “second cavity” because only Cronjaeger cavity 7 involves the sealing edge of half mask 2 (which would have to be the portion characterized as the claimed first sealing means since that is the portion defining the cavity into which air is inhaled and exhaled) as part of its envelope. This reading simply does not make sense with the remainder of the claim.

It is well settled that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See MPEP § 2131; *Verdegaal Bros. V. Union Oil Co. of Calif.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Because Applicants have shown that the Cronjaeger patent does not teach or disclose every claimed element, it is respectfully submitted that this rejection should be reconsidered and withdrawn.

Regarding claim 8, there is again a lack of equivalence such that Cronjaeger fails to anticipate the present invention. The Examiner submits that Cronjaeger provides a sealing piece comprising two portions with respective sealing surfaces as defined in claim 8 (*i.e.*, seals 6 and 11) with a third connecting portion (located on half mask 2). However, the sealed cavity provided thereby would be the cavity identified by Cronjaeger as 4, and as discussed above, there is no provision of pressurized gas to this cavity as required by claim 8. Consequently, there can be no anticipation of claim 8 (nor of claim 12, which also recites these features). Accordingly, because Applicants have shown that the Cronjaeger patent does not teach or disclose every claimed element, it is respectfully submitted that this rejection should be reconsidered and withdrawn.

### **III. 35 U.S.C. § 103**

#### **A. Cronjaeger**

The Examiner has rejected claims 11 and 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,905,683 to Cronjaeger. The Examiner’s position is that it would have been obvious change the material of the sealing piece’s flexibility in order to arrive at the claimed invention. Applicants respectfully traverse this rejection and request

reconsideration and withdrawal thereof. For at least the above reasons, because the Cronjaeger patent does not teach or describe every element recited by claim 8, from which claims 11 and 14 depend, Applicants submit that this rejection should also be withdrawn.

**B. Cronjaeger in view of Richardson**

The Examiner has rejected claims 6 and 7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,905,683 to Cronjaeger in view of U.S. Patent No. 7,013,891 to Richardson. Regarding claim 6, the Examiner's position is that Cronjaeger teaches a respirator with an exhaust valve, but admits that it fails to teach the specific structural limitations recited by the rejected claims. The Examiner submits that the Richardson patent teaches a valve body, a valve assembly outlet, a valve assembly inlet, and a valve cavity therebetween, as well as a valve mechanism, a continuous purge outlet means, and an air deflection means. The Examiner's position is that it would have been obvious to substitute Cronjaeger's valve with the Richardson valve assembly in order to arrive at the claimed invention.

Regarding the combination of the Cronjaeger patent with the Richardson patent, these are two quite different types of respirator (dual cavity, triple cavity); the Examiner has not supported why one would be motivated to choose features from one to substitute for certain elements in the other.

Additionally, for at least the above reasons, because the Cronjaeger patent does not teach or describe every element recited by these claims (which depend from claim 1), even if the Cronjaeger patent is properly combinable with the Richardson patent, the claimed

invention would not result. Accordingly, Applicants submit that this rejection should also be withdrawn.

### **CONCLUSION**

For at least the above reasons, Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. If the Examiner believes there are any issues that can be resolved via a telephone conference, or if there are any informalities that can be corrected by an Examiner's amendment, he is invited to contact the undersigned.

Respectfully submitted,

/Kristin M. Crall 46,895/

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Kristin M. Crall  
Reg. No. 46,895

KILPATRICK STOCKTON LLP  
1100 Peachtree Street  
Suite 2800  
Atlanta, Georgia, 30309-4530  
404.815.6147